

**BUREAU OF LAND MANAGEMENT
OREGON STATE OFFICE
333 SW 1st AVENUE
PORTLAND, OREGON 97204**

**DESIGNATION OF SUSTAINED YIELD UNITS
WESTERN OREGON BUREAU OF LAND MANAGEMENT
DECISION RECORD**

I. INTRODUCTION

Approximately 2.4 million acres of forest land are managed by the Bureau of Land Management (BLM) in western Oregon in accordance with direction in the Oregon and California Grant Lands Act (43 U.S.C. 1181)(hereafter "the O&C Act"). The O&C Act requires the annual productive capacity (synonymous with "annual sustained yield capacity") to be determined and declared for the O&C lands. This determination is made and declared in BLM's decisions adopting Resource Management Plans [RMPs] and is based on calculations of "Allowable Sale Quantity" [ASQ] using models that analyze inventory data, and pertinent factors from the RMP decision such as harvest rotation age, land allocations, numbers of green trees to be left for future snag development, etc. Per the O&C Act, the O&C lands may be subdivided into sustained yield units (SYU) if this will facilitate sustained yield management and have boundaries that "will provide, insofar as practicable, a permanent source of raw materials for the support of dependent communities and local industries."

Currently western Oregon BLM land boundaries for ASQ calculations are established by 12 master units without any SYU subdivision. These master units were established in 1946-47 for the purpose of designating cooperative marketing areas to support local timber producers. Plans for designating marketing areas were abandoned by 1957, though the 12 master units have been retained ever since. As part of the Western Oregon Resource Management Plan (RMP) revision process, BLM will be determining a new annual sustained yield capacity consistent with the O&C Act. It is more efficient to calculate an updated annual sustained yield capacity for the Western Oregon RMP revisions and any future land use plan revisions or amendments with SYUs that coincide with the boundaries of the BLM districts. Declaration of the annual sustained yield capacity at the district SYU level will make a direct tie to the administrative responsibilities for sustained yield management.

II. BACKGROUND

The following background provides context for the current decision being made to establish SYUs for the BLM managed lands in western Oregon:

- The O&C Act provides that the portions of the O&C lands under the jurisdiction of the Department of the Interior, which are classified as timber lands and powersite lands

valuable for timber, should be managed for permanent forest production, and the timber on these lands must be sold, cut and removed in conformity with the principle of sustained yield.

- Section 1 of the O&C Act authorizes the Secretary of the Interior to subdivide the O&C lands into SYUs in order to facilitate sustained-yield management. The SYU boundaries may be established only after hearings are conducted in the vicinity of such lands.
- Between 1939 and 1941 the General Land Office (GLO) devised a plan to divide the O&C lands into twelve master units as a preliminary step for subdivision of these master units into cooperative (federal and private lands) SYUs. In each master unit, the GLO plan ensured continual timber production within the limits of the allowable cut. GLO also compiled basic silvicultural and geographical information and a formula for calculating potential productive capacity. In 1942, GLO produced a Forest Management Handbook to be used in determining which units would provide the best sites for cooperative agreements between the holders of federal and private forest lands in the O&C checkerboard. Each forest unit would serve as the basis for a permanent source of timber supply and an effective means for sustaining dependent communities. In 1945, GLO proposed a new plan to subdivide the twelve master units into 110 cooperative agreement areas, however, these areas were never established. Rather, in 1946 and 1947, twelve Secretarial Orders established the twelve master units and their appurtenant marketing areas. The marketing areas required the processing of timber from western Oregon BLM timber sales to occur in the same marketing area in which it was purchased.
- The marketing areas were abolished between 1942 and 1957. Large and small operators contested several cooperative agreements and the marketing area restrictions. Opponents expressed concerns about monopoly versus free enterprise and leveled charges of conspiracy and favoritism against federal officials at highly charged local hearings. Congress held hearings on the issues, but proposed legislation never passed. The controversy also produced two lawsuits. In 1956, the Chairman of the New York State College of Forestry conducted a study to analyze the effectiveness and desirability of marketing areas. The report asserted that changes in costs, production techniques, transportation patterns, and marketing methods of the lumber industry since 1937 had made the program obsolete and that the marketing areas did not constitute any major base for sustained-yield management. The report recommended that the marketing areas be abolished, but that the master units be retained as a means of assuring community stability. BLM abolished the marketing areas in 1957 and never established cooperative agreements involving O&C lands. A detailed accounting of this history is contained in BLM's Billion-Dollar Checkerboard by Elmo Richardson, Forest History Society, Santa Cruz, California, 1980.
- The pre-1998 43 CFR Part 5040 regulations provided for BLM to establish master units as a basis for studies leading to the formulation of plans for SYUs and cooperative agreements authorized by the O&C Lands Act. BLM had intended to establish SYUs within the boundaries of each master unit in such manner that each SYU contain sufficient land to furnish a sustained supply of timber to forest industries upon which a

local community depended and to constitute a suitable base for a cooperative agreement. For the same reasons identified in the previously mentioned New York State College of Forestry study, the master units are obsolete and are no longer based upon logical boundaries given today's marketing patterns and economical log transportation distances. BLM has never formally established SYUs as a subdivision of the master units. There is no current evidence to suggest any interest in the establishment of cooperative agreements. However, the establishment of master units prior to the establishment of sustained yield units was an unnecessary and inefficient step, hence the publication of revised regulations in 1998. In addition, the current number of master units (which, by default, are serving as SYUs) appears to be excessive in relation to efficient apportioning of the annual sustained yield capacity to six western Oregon BLM districts.

III. REGULATORY PROCESS FOR ESTABLISHING SUSTAINED YIELD UNITS

- The current 43 CFR Part 5040 regulations provide the following procedural steps for BLM to establish new SYUs:
 - Publish notices, approved by the BLM Director, in local newspapers announcing BLM will hold public hearings in the areas where it proposes to designate SYUs.
 - Conduct the public hearings in the areas in which BLM proposes to designate SYUs.
 - Forward minutes or meeting records from the hearing to the BLM Director, along with a recommendation concerning the establishment of units.
 - Publish notices stating whether or not the BLM Director has decided to establish SYUs. If so, the notice must include a geographical description of the SYUs, how the public may review the BLM document that will establish the SYUs, and the date the units will become effective.
- The regulations do not require publication in the Federal Register.
- A designation of SYUs only requires analysis under the National Environmental Policy Act (NEPA) if a new ASQ is to be calculated and annual sustained yield capacity declared, such as is contemplated in the ongoing Western Oregon RMP revisions process.
- Designating new SYUs automatically abolishes the current master units. Until the effective date of the new SYU determination, the current master units remain effective.
- The accomplishment of these procedural steps and the determination/declaration of new SYUs have been formally delegated by the BLM Director to the BLM Oregon/Washington State Director in the 1203 BLM Manual.

IV. PUBLIC INVOLVEMENT

Designation of SYUs does not require analysis under NEPA because a new ASQ is not being calculated and annual sustained yield capacity declared at this time. The BLM anticipates a new

ASQ will be calculated as a part of the Western Oregon RMP revision process, for which an environmental impact statement that includes public involvement is currently being prepared.

Public involvement for the designation of SYUs consisted of four hearings held two per day at 1:30 PM and 7:30 PM on December 7, 2005, at the BLM office in Grants Pass, Oregon, and at the same times on December 8, 2005, at the BLM office in Eugene, Oregon. Notification of these hearings was published in local newspapers. The intent of these hearings was to disseminate information on BLM's proposal to establish SYUs, and to provide an opportunity for testimony to be given. Only one person attended the hearings and did not elect to give testimony. A fact sheet and map were also made available prior to the hearings from the Web, or by making an E-mail or telephone request. Although not required by the guiding regulations, BLM also provided opportunity for written comments to be submitted either through the regular mail or through E-mail.

The public submitted five E-mail comments and one written comment. The written comment was identical and submitted by the same person as one of the E-mail comments. One of the E-mail comments was supportive of the proposal to establish six SYUs. The other four E-mail comments were similar in content. The points raised in these four E-mail comments are consolidated, where possible, and summarized below. BLM's response follows each point.

1. We object to BLM attempting to thwart the intent of the O&C Lands Act, jeopardizing and exporting local jobs by redefining what constitutes a *local timber industry*.

BLM Response: BLM has not defined "local industries," nor does it do so through the establishment of SYUs. The mandate from the O&C Act for the establishment of SYUs is to "provide, insofar as practicable, a permanent source of raw materials for the support of dependent communities and local industries of the region." The law does not say for the exclusive support, nor does it define local industries of the region. The commenter indicates that establishment of SYUs will change the pattern of timber industry employment, benefiting out-of-area businesses at the expense of local jobs and mills. Congress wrote the O&C Act of 1937 to convey benefits to the region encompassed by the O&C Counties, in lieu of property taxes from the Federal revested lands within their boundaries. Congress implied that the definition "local"-meant communities and businesses *within* the O&C Counties, rather than *beyond* the O&C counties. The same definition of "local" pertains today. Over time, the patterns of timber processing and employment have changed within the O&C Counties. For example, larger mills closer to transportation arteries have replaced small remote mills. However, local facilities within the O&C Counties still process the majority of O&C timber harvested. Federal regulations prohibit export of unprocessed Federal timber to foreign countries.

It is not anticipated that establishment of SYUs will change the pattern of timber industry employment within the O&C counties; nor will establishment of SYUs stimulate a shift of timber industry employment from within the O&C counties to beyond the O&C counties. Current declared annual sustained yield capacities, although calculated for the 12 existing master units, were nevertheless declared as single-district figures in the Records of Decision for the existing District RMPs, even though they were actually a combination of determinations of sustained yield capacities of two or more master units. Upon the effective date of the proposed SYUs,

single-district annual sustained yield capacities would again be formally declared. No comments were received from the timber industry nor the O&C Counties indicating the proposed SYUs would be inconsistent with the intent of the O&C Act.

- 2. We object to BLM attempting to thwart the intent of the O&C Lands Act by redefining local timber industries with the result that excess timber is taken from lands where it would otherwise not be necessary to conduct such harvests.**

BLM Response: As discussed in our response to Comment 1, BLM has not defined “local industries,” nor does it do so through the establishment of SYUs. Implementation of a sustained yield timber harvest program is not based on the removal of “excess timber,” but rather the productive capacity of the land and forest, and the level of management intensity.

This comment is not germane to the current decision, which is limited to the establishment of new SYU boundaries. Furthermore, the current decision does not have an immediate effect, because possible effects, if there were any, would not occur until after new determinations of the annual sustained yield capacities for the SYUs are declared in the Records of Decision resulting from the western Oregon resource management plan revisions. Concerns regarding the effects of future management plan-level decisions will be analyzed in an environmental impact statement, and may be addressed through the participation in the public involvement opportunities offered in the Western Oregon RMP revision process.

- 3. BLM's actions have not been in compliance with the O&C Lands Act's demand that timber be harvested in a permanently sustainable quantity. Rather, timber has been harvested in a manner, rate, and quantity beyond the managed land's ability to recover. We object to BLM's attempt to hide mismanagement and failure to comply with the demands of the O&C Lands Act by combining current Sustainable Yield Units into new larger Sustainable Yield Units that serve to hide past BLM mismanagement actions.**

BLM Response: The BLM’s actions regarding the decision to establish SYU boundaries are in compliance with the O&C Act. The comment provided no data to support a claim of “mismanagement.” The harvest levels were declared as sustainable in the current RMPs, and the Annual Planning Summaries prepared by the district offices establish that the actual harvest taking place on BLM land is below the declared annual productive capacity of the lands. The BLM’s intent in establishing SYUs is stated in the Rationale (Section V). In addition, refer to the response to Comment No. 2, paragraph 2.

- 4. We object to BLM's attempt at combining lands into even more divergent climate groupings with the predictable result of even more over-harvesting being allowed within lands that cannot support such volumes. We find that there have been vast increases in knowledge in such factors as microclimate weather conditions, soils fertility, and a vastly improved GIS ability to define and map smaller land areas. If current Sustainable Yield Unit bounds must be redrawn, we call upon BLM to increase rather than decrease the number of those units in recognition of microclimates and other natural factors affecting the land's natural ability to produce timber.**

BLM Response: The commenter's recommendation to increase the number of SYUs to account for increases in site specific knowledge and GIS capacity would not have the effect they describe. The accuracy of BLM's calculation of the productive capacity of the lands does not depend on the configuration of the SYU boundary. The designation of SYUs does not affect the way BLM considers data at finer scales in determining the annual sustained yield capacity. The factors noted by the commenter regarding microclimate weather conditions, soil fertility, GIS produced data will all be considered in the calculation of the sustained yield capacity of the land, regardless of whether this proposed change in boundaries is made or not. If anything, the larger SYUs would allow the BLM more flexibility to schedule timber removal to accommodate site-level concerns while still achieving the objectives of the O&C Act. Due to the potential gain in efficiency achieved with fewer ASQ calculations, and for the other reasons expressed in the Rationale (Section V) in this Decision, the proposed six SYUs meet the requirements of the O&C Act. Concerns regarding future management may be addressed through the participation in the public involvement opportunities offered in the Western Oregon Plan Revision process.

Furthermore, the environmental effects of individual projects may be addressed through participation in the project-level public involvement opportunities offered for BLM district projects. Again, the designation of SYUs does not affect the way BLM considers data at finer scales for environmental analysis.

- 5. We object to BLM's attempt to disguise the intent of redrawing current Sustainable Yield Unit boundaries as a means of reducing the administrative burden of managing these lands. If that is truly the case, we call upon BLM to prove these savings by showing a justifiable reduction in personnel required to perform BLM's legally mandated management actions as a result of redrawing Sustainable Yield Units.**

BLM Response: BLM's intent is stated in the Rationale (Section V) in this Decision. Administrative burdens are not always manifested by personnel excess to the needs. The reduction of the burden here is that the BLM can simplify and shorten the time necessary to calculate the annual productive capacity of the lands, and reduce confusion by making the units used in this calculation match the current configurations of the administrative unit boundaries rather than the ones abandoned half a century ago.

- 6. It is our desire that these comments be read aloud into the public record at each meeting on this topic and be included with any and all evaluations of the impacts, desirability, or other considerations that may occur regarding redrawing current Sustainable Yield Unit boundaries.**

BLM Response: The submitted comments were not read at the hearings because the hearings were designed to take verbal testimony from attendees. Nonetheless, the submitted comments are a part of the administrative record and were given full consideration in the decision to establish SYUs, and are available to the public.

- 7. I support the revision of the Northwest Forest Plan if it is taking into consideration the need to preserve our existing wildlands and is concentrating on the management of**

forest lands that have already been harvested.

BLM Response: Refer to response to Comment No. 2, paragraph 2.

- 8. I am very concerned that the intention of changing the number and boundaries of Sustainable Yield Units is to justify extraction of larger trees for timber companies that are needing large diameter trees for their operations.**

BLM Response: There is no relationship between the sustained yield boundary and tree diameter of harvested trees. Decisions regarding timber harvest would be made at the program scale in the planning direction for western Oregon, as well as specific silviculture prescriptions in the planning of individual projects. Refer to response to Comment No. 2, paragraph 2.

- 9. WAKE UP!! We can no longer carry on as if we have the right to destroy our environment. We cannot continue on this path of destruction.**

BLM Response: Refer to response to Comment No. 2, paragraph 2.

- 10. Let us adopt a policy of adapting to our environment instead of adapting the environment. There is much potential for local timber industries to thrive in our community with a supply of smaller diameter trees. We have the potential of generating power with the biomass provided from forest fuel hazard reduction projects. We have the potential of proudly exhibiting a healthy forest model. We are Oregonians!! With your help, we can do better.**

BLM Response: Refer to response to Comment No. 2, paragraph 2.

- 11. The matter for which you are seeking public comment, only has to do with establishment of SYU boundaries and not the actual determination of the annual productive capacity (aka allowable sale quantity [ASQ]). We respectfully request and expect an opportunity to comments on the various assumptions that BLM will use in determining ASQ, including but not limited to: rotation age, suitable timberland, silvicultural treatments, etc.**

BLM Response: The commenter is correct in identifying the comment opportunity as being relative to the establishment of SYU boundaries, but not relevant to the calculation of an ASQ. The SYUs will serve as administrative boundaries for ASQ calculations anticipated as a part of the any western Oregon land use plan revisions or amendments. The environmental effects of any changes to current district ASQs will be assessed as a part of that plan revision process, which include opportunities for public involvement.

- 12. While it is clear that BLM intends to calculate separate ASQs for each new “master unit/sustained yield unit”, it is unclear from the materials provided by BLM as to whether the agency is going to calculate separate ASQs for Oregon and California (O&C) Revested Lands, Coos Bay Wagon Road (CBWR) Reconveyed Lands (if**

applicable), and Public Domain (PD) Lands within each “master unit/sustained yield unit.” We request clarification regarding the scope of BLM’s proposal to designate SYUs.

BLM Response: A single ASQ will be calculated for each SYU regardless of land status within each SYU.

13. BLM may not combine O&C, CBWR and/or PD land into the same “working circle” for the purposes of determining ASQs.

BLM Response: No rationale to support this statement is provided. The BLM is directed to determine the annual sustained yield capacity for O&C lands in the O&C Act. CBWR lands are governed by the same authority. PD lands are managed under the Federal Land Policy and Management Act to conduct land use planning and identify uses of those lands, including timber production. Refer to response to Comment Nos. 2, paragraph 2, and 12.

14. In Section 2 of the Act, Congress said: “The Secretary of the Interior is authorized, in his discretion, to make cooperative agreements with other Federal or State forest administrative agencies or with private forest owners or operators for the coordinated administration, with respect to time, rate, method of cutting, and sustained yield of forest units comprising parts of revested or reconveyed lands, together with lands in private ownership or under the administration of other public agencies, when by such agreements he may be aided in accomplishing the purposes hereinbefore mentioned.” No such “cooperative agreement” has been made or the contemplation of such has been announced by BLM. If such is contemplated, it would be a major federal action affecting the human environment and an environmental impact statement is necessary.

BLM Response: BLM is not contemplating cooperative agreements with other Federal or State forest administrative agencies or with private forest owners or operators. Also see Response to Comment No. 13.

V. RATIONALE FOR ABOLISHING MASTER UNITS AND ESTABLISHING SUSTAINED YIELD UNITS

- The existing/original master units were designated in 1946 and 1947, and their configurations are no longer logical given timber marketing areas and patterns in place today.
- Management of the forest lands and implementation of the ASQ is the responsibility of each of the western Oregon BLM Districts. Forest conditions across the district should guide how the forest is managed and how the ASQ is implemented. Certain of the master units, as currently configured, are an illogical and unnecessary subdivision for the purposes of facilitating the sustained yield management of the district’s forest lands. Rural sawmills have been mostly replaced by larger centrally-located mills; equipment and infrastructure have improved to allow the transportation of logs over great distances;

demands and markets have changed; remote sensing, mapping, computers and inventories are vastly improved allowing the resource manager to effectively manage larger areas.

- The O&C Act does not mention master units, and does call for the establishment of SYUs to facilitate sustained yield management. BLM has never established SYUs and has allowed the now obsolete master units to serve as SYUs.
- It may be more efficient to calculate the new annual sustained yield capacity for the revised plans, and district management would have greater flexibility on where within the district they sell timber from one year to the next, with fewer SYUs than the current number of master units.
- Implementation of the RMPs including actions to achieve sustained yield management is accomplished at the district level. Declaration of the annual sustained yield capacity at the proposed SYU level will directly match the administrative area with the responsibility to manage the lands upon which the annual sustained yield capacity is based.

VI. DECISION

Considering the record and the public comments received, it is my decision to abolish the current master units and establish six SYUs to include the BLM managed lands in western Oregon. The boundaries of such SYUs shall coincide with the boundaries of the Salem, Eugene, Roseburg, Medford, and Coos Bay Districts, and the area west of Highway 97 in the Klamath Falls Resource Area of the Lakeview District. The SYUs will serve as administrative boundaries for annual sustained yield capacity calculations anticipated as a part of the any western Oregon land use plan revisions or amendments. The environmental effects of any changes to the current declared annual sustained yield capacity will be assessed as a part of any western Oregon land use plan revision or amendment, which will include opportunities for public involvement. The change in boundaries of the SYUs will become immediately effective, but will not be applied until new annual sustained yield capacities are declared in the Records of Decisions for the ongoing Western Oregon Plan Revisions. Until that time, this decision does not make any change to the existing six Western Oregon RMPs or to the current declared annual sustained yield capacity.

VI. ADMINISTRATIVE REMEDIES

This decision is a forest management decision. Administrative remedies are available to persons who believe that they will be adversely affected by this decision. Administrative recourse is available in accordance with BLM regulations and must follow the procedures and requirements described in 43 CFR § 5003 - Administrative Remedies.

The effective date of this decision will be the date of publication of a notice of decision in newspapers of general circulation in the counties affected by the proposed SYUs. Publication of this notice establishes the date initiating the 15-day protest period provided for in accordance

with 43 CFR § 5003.3. Any protest of this decision must be signed and received in the Oregon State Office at the following address by the close of the protest period:

Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, OR 97208

Any protest should also state specifically which portion or element of the decision is being protested and cite the applicable CFR regulations. BLM regulations applicable to the designation of SYUs can be found at 43 CFR Part 5040. Faxed or emailed protests will not be considered.

/s/ John K. Keith, for
Edward W. Shepard
BLM Oregon/Washington State Director

May 23, 2007
Date